

MINUTES

COMMISSION ON LOCAL GOVERNMENT

Regular Meeting

10:15 a.m., September 12, 2005

Members Present

John G. Kines, Jr., Chairman
Harold H. Bannister, Jr., Vice Chairman
Frances M. Parsons
Kathleen K. Seefeldt

Members Absent

Geline B. Williams

Others Present

Ted McCormack, Associate Director
Barbara Johnson, Executive Secretary

Other Attendees

See Attached Listing

Call to Order

The Chairman called the meeting to order at 10:15 a.m., September 12, 2005 in the Third Floor Conference Room of the Department of Housing and Community Development in Richmond.

[Mrs. Seefeldt requested that the record indicate that, consistent with statutory requirements and the Commission's Canons of Conduct, she would not be a participant in the scheduling or any other aspect of issues involving the Town of Onley and Accomack County]

I. Town of Onley – County of Accomack Annexation Issue

A. Preliminary Staff Comment

The Associate Director reported that the Commission had received on July 18, 2005 materials from the Town of Onley advising of the intention of that

jurisdiction to seek the annexation of approximately 36.5 acres of territory located in Accomack County. Mr. McCormack advised that the resolution which accompanied the materials submitted by the Town stated that it was the municipality's intention to seek an amicable solution of the annexation issue. He noted that on August 23 the Commission received notification from the Town of Onancock requesting that it be permitted to participate fully in the Commission's review of the Onley annexation notice. The Associate Director indicated that there were three issues before the Commission at the current meeting – (1) an offer of mediation assistance to the parties, (2) determination of the role that the Town of Onancock would play in the Commission's proceedings, and (3) the establishment of a schedule for review of the annexation issue. He concluded by advising that Mr. Gerald S. Vincent, Town Attorney for Onley, Mr. David N. Anthony, Special Counsel for Accomack County, and Mr. David Rowan, Town Attorney for Onancock were present at the meeting, and that they were prepared to address the Commission on behalf of their respective localities.

B. Comments by Representatives of the Parties

Mr. Vincent stated that Onley is desirous of reaching a negotiated settlement of the annexation issue with the County. He noted that the Town has no objections to participation by the Town of Onancock in the Commission's proceedings. Mr. Anthony indicated that the County would be willing to meet with the Town of Onley to discuss various issues, and further, that the County also did not object to Onancock's participation in the review of the proposed annexation. Mr. Rowen requested that the Town of Onancock be permitted to

participate in the Commission's proceedings. Representatives for Onley and Accomack County indicated that they would agree to an extension of the Commission's reporting deadline if needed to facilitate the establishment of a review schedule.

C. Commission Action

1. Mediation Assistance

Mr. Bannister stated that he saw in the statements by Onley and the County as an indication that the parties were willing to discuss the annexation issue. Chairman Kines urged Onley and Accomack County to commence joint discussions in the near future. Representatives for the two parties indicated that they would attempt to comply with the Commission's request. In anticipation that the parties might subsequently request mediation assistance, the Commission delegated to the Chairman the authority to designate an independent mediator to assist the Town and the County upon their joint request.

2. Participation by the Town of Onancock

The Commission granted the request by the Town of Onancock to file material, data, and exhibits, make presentations during the oral presentations, question witnesses of the other parties, and otherwise participate in the Commission's proceedings. The Commission noted, however, that this level of participation by Onancock did not include direct involvement in any interlocal negotiations that may occur between Onley and Accomack County.

3. Establishment of Review Schedule

After a brief discussion, the Commission established the following schedule for its review of the Town of Onley – Accomack County annexation issue:

Filing of Responses by County and Onancock – November 4, 2005

Filing of Supplemental Exhibits and Materials by Towns and County –
November 25, 2005

Tour – December 12, 2005; 9:00 a.m.

Oral Presentations – December 12, 2005; 10:30 a.m.

Public Hearing – December 12, 2005; 7:00 p.m.

Continuation of Oral Presentations (if needed) – December 13, 2005;
8:30 a.m.

Report Date – March 17, 2006. (Officials for Onley and Accomack County indicated their agreement to an extension of approximately 150 days for the issuance of the report.)

D. Review of Administrative Concerns

The Associate Director presented a copy of the Commission's Canons of Conduct to representatives for the parties, and requested that they note in particular Canons 6 and 8 dealing with ex parte communications and member absences. Mr. McCormack advised that there were a number of administrative issues related to the Commission's review of the proposed annexation, but he added that he would present these issues to the parties by mail at a later date.

II. Resolution of Appreciation for James J. Heston

The Associate Director advised that Mr. Heston was unable to be present at the current meeting in order to receive the resolution of appreciation from the members. Mr. McCormack indicated that Mr. Heston was honored to receive such a resolution, but that prior commitments prevented him from traveling to Richmond in the immediate future. The Associate Director stated that Mr. Heston requested that the framed copy of the resolution be mailed to him, after a brief discussion, the Commission directed Mr. McCormack to mail the resolution to Mr. Heston.

III. Administration

A. Approval of Minutes of Special and Regular Meetings of July 18, 2005

The minutes of the Commission's special meeting of July 18, 2005 and regular meeting of July 18, 2005 were approved without amendment.

B. Presentation of Financial Statement for August 2005

The Associate Director stated that since the Department of Housing and Community Development had been delayed in setting up its electronic accounting system for Fiscal Year 2006, he did not have a financial statement to present to the members. Mr. McCormack indicated, however, that there were no extraordinary expenditures for the months of July and August 2005.

C. Associate Director's Report

1. Annual Conferences of the Virginia Municipal League and the Virginia Association of Counties

The Associate Director advised that the members have received complimentary registration for the annual conference of the Virginia

Municipal League scheduled for October 23-25, 2005 in Richmond. Mr. McCormack advised that he would forward to the members following the current meeting the complimentary registration for the Virginia Association of Counties' Conference at the Homestead November 13-15. He indicated that if individual Commissioners desired to attend either conference, their travel expenses would be reimbursed by the State, but that they could not receive the meeting per diem for attendance unless they were participating in one of the sessions or have been officially designated by the Commission to attend the conferences. He requested that any member planning to attend either conference advise Ms. Barbara Johnson so that certain administrative arrangements can be made for travel reimbursement.

2. Recruitment for Vacant Position

The Associate Director reported that the Commission had received approximately 80 applications for the Commission's vacant Senior Policy Analyst position. Mr. McCormack indicated that the Human Resource office at the Department of Housing and Community Development determined that of that number, only eight met the qualifications for the position. He noted that those eight individuals were interviewed on August 31-September 1 and further, that he hoped to extend an offer of employment within the next two weeks.

3. Meeting Per Diem

The Associate Director stated that, in accordance with the Commission's Policy on compensation and reimbursement, per diem would be paid to Mrs. Parsons for her travel on September 11, 2005, and all members present for their service to the Commonwealth on September 12, 2005.

4. Staff Activities

The Associate Director reported that since the last regular meeting, Steve Ziony had completed work on four major statistical items and had posted the results of that research on the Commission's Internet web site. Mr. McCormack stated that those items included an interstate comparison of State and local government finances for Fiscal Year 2002, and local-source revenues, operating expenditures, and intergovernmental revenues for Virginia's counties and cities for Fiscal Year 2004. He noted that the latter three items were offshoots of Mr. Ziony's work on the comparative fiscal stress report. The Associate Director also indicated that his work plan included the survey of the utilization of cash proffers by localities, the annual survey of executive branch agencies concerning the mandates they impose on local governments, and working with the planning district commissions on the annual report each is required to file with the Department of Housing and Community Development.

IV. Revision of Commission Regulations

A. Preliminary Staff Comment

The Associate Director advised that the period for public input on the proposed revisions to the Commission's Public Participation Guidelines and Regulations ended on August 1, 2005 without the receipt of any comment on the changes. Mr. McCormack noted that prior to the public comment period the staff had received some recommended stylistic and non-substantive recommendations from the Department of Planning and Budget that will be incorporated into the final version of the regulations. In addition, he indicated that Mrs. Parsons had contacted him with respect to some questions that she had concerning certain provisions in the regulations. In closing, Mr. McCormack stated that the Commission had until January 1, 2006 to submit the final versions of its Public Participation Guidelines and Regulations for review.

B. Commission Discussion and Direction

At the request of the Chairman, Mrs. Parsons briefly reviewed her questions concerning the proposed regulations. She indicated that 1VAC50-20-600 referred to the "minor" adjustment of boundary lines, but that there was no definition of that term. The Associated Director stated that the term had been transferred without change from the Rules of Procedure, and that it was obsolete. After a brief discussion, the Commission tentatively agreed to delete the term "minor" where appropriate. Mrs. Parsons also observed that at several locations in the regulations the Commission requested that localities furnish projections of population and school students, but that the time period for those projections was

not specified. The Commission tentatively agreed that where called for, population and student projections should be for a ten-year period. Further, Mrs. Parsons noted that in 1VAC50-20-390.Q where corrected data or material is submitted to the Commission prior to the closing of the record, the regulations authorize the Commission to delay its proceedings "...for an appropriate amount of time..." to give other parties an opportunity respond to the corrections. Mrs. Parsons suggested that the Commission may want to specify what that time period should be. The Commission discussed various alternatives, but tentatively agreed not to specify a time period because each situation could be unique. Mr. Kines stated that as drafted, 1VAC50-20-620.M did not place any restrictions on the introduction of new exhibits by the parties once the oral presentations had commenced, and that in his experience, the parties had sometime introduced a number of items at the last minute. Mr. Bannister concurred with Mr. Kines' observation and recommended that the section be rewritten. The members discussed various revisions and tentatively agreed that the once the on-site component of the Commission's review had begun, no additional material, data, or exhibits may be introduced by the parties unless unanimously approved by the members present at the proceeding. At the conclusion of the discussion, the Commission directed the staff to revise the affected sections of the regulations and send a draft to the members in advance of the next meeting. Further, the Commission agreed to delay their final approval of the Public Participation Guidelines and Regulations until the next meeting.

V. Scheduling of Next Regular Meeting

The next regular meeting was scheduled for November 10, 2005 at 10:00 a.m. at the Commission's offices in Richmond, Virginia.

VI. Adjournment

The meeting was adjourned at 12:40 p.m.

John G. Kines, Jr.
Chairman

Ted McCormack
Associate Director

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Meeting Attendees

John W. Kellam, Mayor, Town of Onley
Billye D. Custis, Vice Mayor, Town of Onley
Gordon S. Vincent, Attorney, Town of Onley
Herbert Gilsdorf, Zoning Administrator, Town of Onley
Wanda Thornton, Chairman, Accomack County Board of Supervisors
Steve Miner, County Administrator, County of Accomack
David N. Anthony, Special Counsel, County of Accomack
David Rowan, Attorney, Town of Onancock
Susan D. Scott, Town Manager, Town of Onancock

COMMISSION ON LOCAL GOVERNMENT

COMMONWEALTH OF VIRGINIA

At the regular meeting of the Commission on Local Government held in Richmond, Virginia on July 18, 2005 at the hour of 11:00 a.m., the following resolution was adopted:

WHEREAS, James J. Heston served the Commission on Local Government with distinction from January 1995 to January 2005; and

WHEREAS, His dedication and commitment to the service of the Commonwealth and its localities made him a credit to this Commission; and

WHEREAS, His strength of character and extensive knowledge of the issues confronting local governments in this Commonwealth earned him the respect and admiration of this Commission and all others associated with its activities; and

WHEREAS, His effective advocacy of his perspective, coupled with his respectful consideration of the views of others, made him an invaluable participant in this Commission's deliberations; and

WHEREAS, His constant good humor, his graciousness, and his unfailing concern for others added immeasurably to the pleasure and satisfaction derived from service on this Commission; and

NOW, THEREFORE, BE IT RESOLVED, That the Commission on Local Government does hereby convey its gratitude to **James J. Heston** for his many contributions to this body and acknowledges with profound regret the loss of his companionship and constant good counsel; and

BE IT FURTHER RESOLVED, That a copy of this resolution be spread upon the Minutes of this meeting and that a framed copy thereof be presented to **James J. Heston** as a permanent testament of our affection, esteem, and high regard.